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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,703	06/29/2001	Reizo Maeda	010829	4945
23850	7590	06/18/2003		
ARMSTRONG, WESTERMAN & HATTORI, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006			EXAMINER	
			ALEJANDRO, RAYMOND	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	JAN 7
	09/893,703	MAEDA ET AL.	
	Examiner	Art Unit	
	Raymond Alejandro	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 May 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 1-5 and 9) in Paper No. 6 is acknowledged.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 12/07/01 was considered by the examiner.

### ***Drawings***

4. The drawing filed on 06/29/01 have been accepted.

### ***Specification***

5. The preliminary amendment filed 09/26/01 amended the specification and claim 3 to correct typographical errors (i.e. correcting the term "stylene" to "styrene"). Thus, it does not introduce new matter into the disclosure.

***Claim Language Suggestions***

6. Claim 2 (lines 4-5), it is suggested to change the claim language "comprising at least two types of elements selected from the group consisting of " to "comprising at least two elements selected from the group consisting of " so as to better reflect the intended scope of the instant claims.
7. Claim 3 (lines 3-4), it is suggested to change the claim language "at least one type of elements selected from the group consisting of " to "at least one element selected from the group consisting of " so as to better reflect the intended scope of the instant claims.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Yuasa et al 5250369.

The instant application is directed to a hydrogen absorbing alloy electrode wherein the disclosed inventive concept comprises the specific polymeric material coated thereon. Other limitations include the specific polymeric materials and the specific weight percent.

**With respect to claim 1:**

Yuasa et al disclose that a hydrogen absorbing ally negative electrode for use in storage type battery is prepared through a process in which an alkali-resisting organic high molecule

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such as polyethylene, fluorocarbon polymer or the like, is added as a binding agent to a pulverized hydrogen absorbing alloy, and the resulting mixture is pressed onto or filled into an electrically conductive collector such as punching metal or a foam metal (Col 1, lines 37-45/Col 3, lines 50-67). Other alkali-resisting resins (binding agent) such as carboxymethylcellulose and methylcellulose or poly(vinyl alcohol) can also be employed (Col 14, lines 6-10). *It is noted that the binding agent assists to hold fast or adhere the electrode material to conductive collector.*

Examiner's note: *it is noted that the transitional phrase "composed of" is construed as an open-ended phrase and therefore does not exclude other components.*

Example 1 shows the use of an aqueous solution of poly(vinyl alcohol) (the binding agent) mixed into the hydrogen absorbing alloy powder to form paste; and a foamed nickel porous matrix (the current collector) which is filled with the prepared paste and pressed (EXAMPLE 1/COL 4, lines 1-10). Example 7 further shows the hydrogen absorbing alloy negative electrode is coated with polyethylene (the coating polymeric material) (EXAMPLE 7/COL 4, lines 65-68). *Thus, in this case, the hydrogen absorbing alloy electrode consist of the hydrogen absorbing powder and a binding agent composed of a polymeric material (polyvinyl alcohol) adhered to the current collector, and being coated with polyethylene. Hence, the polymeric material in the coating layer is different from the polymeric material in the binding agent.*

With respect to claims 2-3:

It is disclosed that polyethylene used may be replaced by one of thermoplastic resins such as ABS resin (COL 14, lines 26-30). *It is noted that ABS resin stands for thermoplastic resins*

*made of acrylonitrile-butadiene-styrene copolymer. It is also noted that styrene is an aromatic olefin and butadiene is a conjugated diene.*

With respect to claims 4-5:

It is disclosed that the hydrogen absorbing ally negative electrode contains the resin by an amount of 1.5 wt % of the electrode (COL 5, lines 60-63).

With respect to claim 9:

It is disclosed that the hydrogen absorbing alloy electrode is for use in an alkaline storage battery (ABSTRACT/ COL 1, lines 11-14).

Thus, the claims are anticipated.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Alejandro whose telephone number is (703) 306-3326. The examiner can normally be reached on Monday-Thursday (8:30 am - 7:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on (703) 308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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Raymond Alejandro  
Examiner  
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